

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEXINGTON INSURANCE COMPANY as subrogee of
BP/CG Center I, LLC, BP/CG II, LLC, Citigroup Center
Condominium, and all other named insureds under
policy number 8753820,

Plaintiffs,

RULE 7.1 STATEMENT

Case No.: 08 CV 6563
(GBD)(THK)

-against-

LOCHINVAR CORPORATION, SOUTH ERIE
PRODUCTION COMPANY doing business as SEPCO-
ERIE and S. DIGIACOMO & SON, INC.,

Defendants.

-----X

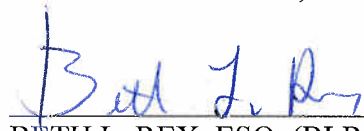
Pursuant to Federal Rule of Civil Procedure 7.1 and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned is counsel for Defendant S. DiGiacomo & Son, Inc., a private non-governmental entity. It is further stated that S. DiGiacomo & Son, Inc. is not a publicly held corporation and no other corporation owns 10% or more of its stock.

Dated: New York, New York
August 27, 2008

Yours, etc.

FRENCH & RAFTER, LLP

BY:


BETH L. REX, ESQ. (BLR 2025)
Attorneys for Defendant
S. DiGiacomo & Son, Inc.
29 Broadway, 27th Floor
New York, New York 10006
212-797-3544
File #: 8400.1152

TO:

David Scott Smith, Esq.
Gwertzman Lefkowitz Burman Smith & Marcus
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80 Broad Street – 16th Floor
New York, New York 10004
(212) 968-1001

Roland Theodoor Koke, Esq.
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LOCHINVAR CORPORATION,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444

SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPSCO-ERIE
1221 Robinson Road
Erie, PA 16509

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

SANDY PEÑA, being duly sworn, deposes and says:

That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on August 27, 2008, deponent served the within **RULE 7.1 STATEMENT** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

David Scott Smith, Esq.
Gwertzman Lefkowitz Burman
Smith & Marcus
Attorneys for Plaintiffs
80 Broad Street – 16th Floor
New York, New York 10004
(212) 968-1001

SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPSCO-ERIE
1221 Robinson Road
Erie, PA 16509

Roland Theodoor Koke, Esq.
Rende, Ryan & Downes, LLP
Attorneys for Defendants
LOCHINVAR CORPORATION,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444



SANDY PEÑA

Sworn to before me this
27TH day of August, 2008



NOTARY PUBLIC

BETH REX
Notary Public, State of New York
NO. 31-4928883
Qualified in New York County
Commission Expires April 4, 20 10

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RULE 7.1 STATEMENT

FRENCH & RAFTER, LLP

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

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